

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 299

Introduced by Assembly Member Eng

February 9, 2011

An act to amend Section ~~22400~~ of 12303 of, to add Section 12317 to, and to add Chapter 5 (commencing with Section 12400) to Division 12 of, the ~~Financial Elections~~ Code, relating to ~~finance lenders~~ voting rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as amended, Eng. ~~Finance lenders; consumer loans; Voting rights; language assistance.~~

(1) Existing state and federal laws, including the federal Voting Rights Act of 1965, require elections officials to provide language assistance to voters with limited English proficiency in order to access voting information and cast their votes at the polling place. Existing law also requires elections officials, under specified circumstances, to make reasonable efforts to recruit elections officials who are fluent in a language used by citizens who lack sufficient skill in English to vote without assistance.

This bill would revise the recruitment provisions to apply to precincts where the elections official is required to post translated facsimile ballots and would require each county, not later than 60 days before the first statewide election held in every even-numbered year, to submit a specified report to the Secretary of State describing the county's plan for compliance with state and federal laws enacted to assist voters with limited English proficiency. The bill would require that this report be made available to the public upon request and that the Secretary of

State issue guidance for a uniform standard report format for this purpose that includes, at a minimum, specified information that sets forth the county's plan for protecting the rights of these voters. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

The bill would also require the elections official to evaluate complaints filed against precinct board members and would require the Secretary of State to select the best practices and resources for precinct board member training. The Secretary of State would also be required to consult with an advisory body composed of specified members for this purpose and to report violations of these provisions pursuant to law.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Department of Financial Institutions. Existing law provides for the regulation of consumer loans, as defined. Existing law provides for the regulation of precomputed charges with regard to loan contracts payable in monthly installments, as specified.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California is seeing an increasing gap between the state's
4 voting and nonvoting populations. Barriers to voting, such as
5 complicated voting materials and unfamiliar voting procedures,
6 contribute significantly to this gap. In California, there are millions
7 of voters with limited English proficiency. Large numbers of voters

1 *continue to be first-time voters who are unfamiliar with the voting*
2 *process.*

3 *(b) Federal and state laws require elections officials to provide*
4 *bilingual voting assistance to these voters, and some cities and*
5 *counties in California with substantial concentrations of language*
6 *minorities are subject to federal court decrees pursuant to the*
7 *Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.) that require*
8 *them to provide additional language assistance and translated*
9 *voting materials. These voting rights laws help the ability of voters*
10 *with limited English proficiency and first-time voters to overcome*
11 *barriers to voting.*

12 *(c) While the vast majority of precinct board members are*
13 *committed to serving voters on election day, poll monitoring efforts*
14 *by various organizations have observed a lack of compliance or*
15 *misapplication of federal and state laws relating to voting rights.*
16 *Poll monitors have observed polling places failing to provide the*
17 *required translated voting materials, not having bilingual precinct*
18 *board members, and failing to provide provisional ballots. As a*
19 *result of these failures, voters are unable to exercise their right to*
20 *vote.*

21 *(d) The Secretary of State has the authority, pursuant to Section*
22 *12172.5 of the Government Code, to require elections officials to*
23 *make reports concerning elections in their jurisdictions and assist*
24 *elections officials in discharging their duties.*

25 *(e) Increasing compliance with federal and state voting rights*
26 *laws, and implementing a best practices approach to precinct*
27 *board member training, will facilitate the ability of voters with*
28 *limited English proficiency and first-time voters to participate in*
29 *California's democracy.*

30 *SEC. 2. Section 12303 of the Elections Code is amended to*
31 *read:*

32 *12303. (a) No person who cannot read or write the English*
33 *language is eligible to act as a member of any precinct board.*

34 *(b) It is the intent of the Legislature that non-English-speaking*
35 *citizens, like all other citizens, should be encouraged to vote.*
36 *Therefore, appropriate efforts should be made to minimize*
37 *obstacles to voting by citizens who lack sufficient skill in English*
38 *to vote without assistance.*

39 *(c) ~~Where the elections official finds that citizens described in~~*
40 *~~subdivision (b) approximate 3 percent or more of the voting-age~~*

1 residents of a precinct, or in the event that interested citizens or
2 organizations provided information which the elections official
3 believes indicates a need for voting assistance for qualified citizens
4 described in subdivision (b). *In precincts where the elections official*
5 *is required to post translated facsimile ballots in accordance with*
6 *the determinations and findings made by the Secretary of State*
7 *pursuant to Section 14201, the elections official shall make*
8 *reasonable efforts to recruit election elections officials who are*
9 *fluent in a the determined language used by citizens described in*
10 *subdivision (b) and in English or languages. This recruitment shall*
11 *be conducted through the cooperation of interested citizens and*
12 *organizations and through voluntarily donated public service*
13 *notices in the media, including newspapers, radio, and television,*
14 *particularly those media that serve the non-English-speaking*
15 *citizens described in subdivision (b).*

16 (d) At least 14 days before an election, the elections official
17 shall prepare and make available to the public a list of the precincts
18 to which officials were appointed pursuant to this section, and the
19 language or languages other than English in which they will
20 provide assistance.

21 SEC. 3. Section 12317 is added to the Elections Code, to read:
22 12317. In selecting the members of the precinct board, the
23 elections official shall evaluate complaints filed against precinct
24 board members, and shall excuse those who are found to be
25 unsatisfactory in carrying out their duties in connection with the
26 conduct of the election.

27 SEC. 4. Chapter 5 (commencing with Section 12400) is added
28 to Division 12 of the Elections Code, to read:

29
30 CHAPTER 5. LANGUAGE ASSISTANCE

31
32 12400. (a) Each county shall submit a report not later than
33 60 days prior to the first statewide election held in each
34 even-numbered year, as set forth in Section 1001, to the Secretary
35 of State describing the county's plan for compliance with
36 applicable federal and state laws and regulations related to
37 providing voters with language assistance. Not later than 60 days
38 prior to each subsequent statewide election held in an
39 even-numbered year, each county shall submit an update detailing
40 material changes to the plan it submitted for the first election of

1 *that year. Federal and state laws and regulations to be addressed*
2 *by the plan include, but are not limited to, all of the following:*

3 *(1) Section 203 (42 U.S.C. Sec. 1973aa-1a) and Section 4(f)(4)*
4 *(42 U.S.C. Sec. 1973b(f)(4)) of the Federal Voting Rights Act of*
5 *1965, and the regulations issued by the United States Department*
6 *of Justice (28 C.F.R. 55.1 to 55.21, incl.).*

7 *(2) Federal Help America Vote Act (42 U.S.C. Sec. 15301 et*
8 *seq.).*

9 *(3) Section 12303.*

10 *(4) Section 14201.*

11 *(b) The Secretary of State shall issue guidance for a uniform*
12 *standard report format that will enable each county to comply*
13 *with the requirements of this section to report the county's plan*
14 *for protecting the rights of voters with limited English proficiency.*
15 *A county shall, at a minimum, include all of the following*
16 *information in its plan:*

17 *(1) The translated facsimile copies of ballots with ballot*
18 *measures and ballot instructions required to be made available*
19 *at polling places on election day pursuant to Section 14201.*

20 *(2) The translated signage and ballot materials to be provided*
21 *to voters prior to election day and at polling places.*

22 *(3) The estimated number of bilingual precinct board members*
23 *necessary to meet the language needs of voters with limited English*
24 *proficiency and the planned method to recruit a sufficient number*
25 *of bilingual precinct board members.*

26 *(4) The methodology of assigning bilingual precinct board*
27 *members to polling places, including the process for determining*
28 *the need for bilingual voting assistance in additional precincts to*
29 *meet state and federal language assistance requirements.*

30 *(5) A description of the training provided to precinct board*
31 *members to educate them about compliance with federal and state*
32 *voting rights laws and regulations and the best practices approach*
33 *used to assist voters with limited English proficiency, voters with*
34 *disabilities, and first-time voters, including any copies of precinct*
35 *member training curricula and handbooks.*

36 *(6) The plans for conducting outreach to, and education of,*
37 *voters with limited English proficiency, including electoral*
38 *activities, the availability of translated materials and bilingual*
39 *assistance through the display of public notices, the use of media*

1 outlets that serve language minorities, and direct contact with
2 organizations that serve language minority populations.

3 (7) The plans for operating voter hotlines that can adequately
4 respond to telephone calls from voters with limited English
5 proficiency.

6 (c) Upon receipt of each report, the Secretary of State shall
7 conduct an assessment of each county's plan. If any problems or
8 deficiencies are identified, the Secretary of State shall provide
9 assistance and expertise to the county to correct the problems or
10 deficiencies. The Secretary of State shall also review precinct
11 board member training curricula and handbooks to assess their
12 inclusion of the uniform standards adopted by the Secretary of
13 State pursuant to Section 12309.5, and if any problems or
14 deficiencies are identified, the Secretary of State shall provide
15 assistance and expertise to the county to correct the problems or
16 deficiencies.

17 (d) The Secretary of State shall select the best practices and
18 resources for implementing the laws referenced in subdivision (a)
19 and for the Secretary of State's precinct board member training
20 standards issued pursuant to Section 12309.5 and shall make them
21 available to elections officials in a centralized repository. The
22 Secretary of State shall update the central repository each year.

23 (e) In implementing subdivisions (c) and (d), the Secretary of
24 State shall consult with an advisory body composed of members
25 from voting rights organizations, elections officials, and civic
26 engagement groups.

27 (f) The Secretary of State shall report violations of this section
28 pursuant to Section 12172.5 of the Government Code.

29 (g) The reports provided pursuant to subdivision (a) shall be
30 made available to the public upon request.

31 SEC. 5. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

36 SECTION 1. ~~Section 22400 of the Financial Code is amended~~
37 ~~to read:~~

38 ~~22400. This article applies only to loan contracts payable in~~
39 ~~substantially equal and consecutive monthly installments of~~
40 ~~principal and charges combined, the first of which is due not less~~

1 than 15 days nor more than one month and 15 days from the date
2 the loan is made. In lieu of computing charges and applying
3 payments as provided in Section 22307, a licensee may precompute
4 charges and apply payments as follows:

5 (a) The total charges that would be earned if the contract were
6 repaid exactly according to its terms, at the monthly rate stated in
7 the contract, may be precomputed when the loan is made and added
8 to the principal of the loan. For the purpose of computation, a
9 month shall be that period of time from any date in one month to
10 the corresponding date in the next month, and if there is no
11 corresponding date, then to the last day of the next month. The
12 principal amount of the loan shall be its face value as referred to
13 in Section 22309. Every payment may be applied to the combined
14 total of principal and precomputed charges until the contract is
15 fully paid. The acceptance of payment of charges on loans made
16 under the provisions of this article shall not be deemed to constitute
17 payment deduction or receipt thereof in advance nor compounding
18 under Section 22309. Precomputed charges shall be subject to the
19 following adjustments:

20 (1) The portion of the precomputed charge applicable to any
21 particular monthly installment period shall bear the same ratio to
22 the total precomputed charge, excluding any adjustment made for
23 a first period of more than one month, as the balance scheduled to
24 be outstanding during that monthly period bears to the sum of all
25 monthly balances scheduled originally by the loan contract.

26 (2) If the loan contract is paid in full by cash, a new loan,
27 refinancing, or otherwise, the borrower shall receive a rebate of
28 that portion of the precomputed charge that is the difference
29 between the total precomputed charge and the charges at the
30 contract rate computed in accordance with the provisions of Section
31 22307 or 22308. The tender, by the borrower or at his or her
32 request, of an amount equal to the unpaid balance, less the required
33 rebate, must be accepted by the licensee in full payment of the
34 contract.

35 (3) If three or more, but not all, installments are prepaid in full
36 at any one time, all of the prior charges for the loan shall be
37 recalculated and all subsequent charges for the remaining term of
38 the loan shall be recalculated by applying each payment first to
39 charges and the remainder to principal in accordance with the
40 provisions of Section 22307 or 22308.

~~(4) If the payment date of all wholly unpaid installments on which no default charge has been collected is deferred one or more full months and the contract so provides, the licensee may charge and collect a deferment charge. The deferment charge shall not exceed the portion of the precomputed charge applicable prior to deferment, to the first deferred monthly installment period multiplied by the number of months the maturity of the contract is deferred. The number of months shall not exceed the number of full installments that are in default on the date of deferment or that may become due within 15 days of that date. When a deferment charge is made, no portion of the precomputed charge shall apply to the installment periods in which no installment payment is required by reason of the deferment. In computing any default charge or required rebate, the portion of the precomputed charge applicable to each deferred balance and installment period following the deferment period and prior to the deferred maturity shall remain the same as that applicable to the balances and periods under the original loan contract. The charge may be collected at the time of deferment or at any time thereafter. Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract. However, if the payment is sufficient to pay, in addition to the appropriate deferment charge, any installment that is in default and the applicable default charge, it shall be first so applied and any such installment shall not be deferred nor subject to the deferment charge.~~

~~(5) In the event of default of more than 10 days in the payment of one-half or more of any scheduled installment, the licensee may charge and collect a default charge not exceeding an amount equal to the portion of the precomputed charge applicable to the final installment period. The charge may not be collected more than once for the same default and may be collected at the time of the default or at any time thereafter. If the default charge is deducted from any payment received after default occurs, and the deduction results in the default of a subsequent installment, no charge may be made for the resulting default.~~

~~(6) A borrower and licensee may agree that the first installment due date may be not more than 15 days more than one month and the amount of the installment may be increased by one-thirtieth~~

1 of the portion of the precomputed charge applicable to a first
2 installment of one month for each extra day.

3 (b) The statement to be given to the borrower as provided in
4 subdivision (a) of Section 22337 and the contract shall disclose in
5 addition to other required information the principal amount of the
6 loan exclusive of charges and the basis for computing the refund
7 of precomputed charges in case of prepayment in full or
8 acceleration of maturity and for computing default and deferment
9 charges. The delivery of a receipt of each payment showing the
10 total amount of each payment complies with subdivision (d) of
11 Section 22337.

12 (c) If the maturity of the contract when the charges are
13 precomputed is accelerated for any reason, the licensee shall make
14 the same refund or credit as would be required if the contract was
15 paid in full on the date of acceleration. The unpaid balance shall
16 be treated as the unpaid principal balance, and thereafter the unpaid
17 balance of the contract shall bear charges at the agreed rate of
18 charge if the loan contract so provides.